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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/783,378
Filing Date: February 20, 2004
Appellant(s): NEVEN, HARTMUT

———————————
Christopher King
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/02/2008 appealing from the Office action

mailed 03/25/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

WO 03/041000, "Image Capture and Identification System and Process", Boncyk et al, 05/15/2003

2003/0164819   Waibel   09-2003

2002/0049728   Kaku   04-2002

Haynes Repair Manuals, 03/25/2002, retrieved 12/04/2008 from www.archive.org, url

http://web.archive.org/web/20020325061432/http://haynes.com/

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims **1-8, 11-15, 17-19, and 21-28** are rejected under 35 U.S.C. 102(e) as

being anticipated by Boncyk et al. (WO 03/041000).

Regarding claim **1**, Boncyk et al. discloses:

> A system for image-based information retrieval from search
> engines, characterized by a) a terminal with a built-in camera that is
> connected to a remote data transmission network (8:22-10:5); b) a server
> computer on which an object recognition program is running, which
> analyses images sent to it and provides them with a symbolic indexing
> (37:30-38:1 and 18:6-10); c) a search engine that uses the indexed image
> to find information about the image and sends it back to the terminal
> (37:30-38:1 and 18:6-10).

Regarding claim **2**, see the rejection of claim 1 and note that Boncyk et al. further

discloses:

> The system as described under 1) that is designed for mobile
> telephones or portable computers that have a built-in camera (6:7-19).

Regarding claim **3**, see the rejection of claim 1 and note that Boncyk et al. further discloses:

> A city or museum guide that uses the system described under 2) to provide a user with information about objects of which he or she has previously taken a picture (2:5-7).

Regarding claim **4**, see the rejection of claim 3 and note that Boncyk et al. further discloses:

> The system as described under 3) in which positioning information is also used to appropriately limit the image recognition system (27:36-28:14).

Regarding claim **5**, see the rejection of claim 2 and note that Boncyk et al. further discloses:

> The system as described under 2) that provides product information about products that have been previously photographed with the mobile camera (27:36-28:14).

Regarding claim **6**, see the rejection of claim 2 and note that Boncyk et al. further discloses:

> The system as described under 2) in which the image recognition system is also able to recognize text characters or symbols (27:36-28:14).

Regarding claim **7**, see the rejection of claim 2 and note that Boncyk et al. further discloses:

> The system as described under 2) in which the system is, in
> particular, able to recognize faces (27:7-9).

Regarding claim **8**, see the rejection of claim 2 and note that Boncyk et al. further
discloses:

> The system as described under 2) that is used to provide the user
> with additional information about advertising billboards (39:18-24).

Regarding claim **11**, Boncyk et al. discloses:

> A computer implemented system for image-based searching,
> comprising: a computer server, communicatively coupled with a network,
> that receives an input image from a user device communicatively coupled
> with the network (8:22-10:5); an image recognition system executed by
> the computer server and adapted to: determine a plurality of graphical
> attributes of the input image (37:30-38:1 and 18:6-10); match the input
> image to a reference image from a plurality of reference images stored in
> the storage medium (15:1-15:35), based on the plurality of graphical
> attributes of the input image and the reference images, each of the
> reference images having an associated symbolic identifier (37:30-38:1);
> and associate a symbolic identifier to the input image based on the
> symbolic identifier associated with the matching reference image (37:30-
> 38:1); a search engine executed by the computer server and adapted to
> receive a query and to retrieve a set of search results associated with the
> query (9:40-10:5, URL); and a query processing system executed by the

computer server and adapted to: receive the symbolic identifier of the input image from the image recognition system (9:40-10:5, URL); provide the symbolic identifier to the search engine as a query, and to receive a set of search results associated with the symbolic identifier (URL lookup 9:40-10:5); and transmit, via the network, a plurality of the search results to the user device (9:40-10:5 and 25:1-40).

Regarding claim **12**, see the rejection of claim 11 and note that Boncyk et al. further discloses:

User device comprises a mobile telephone having an integrated camera (6:7-19).

Regarding claim **13**, see the rejection of claim 11 and note that Boncyk et al. further discloses:

Server receives a geographic location of the user device in association with the input image (27:36-28:14); and the image recognition system is further adapted to match the input image to a reference image from the plurality of reference images based on the geographic location of the user device (27:36-28:14).

Regarding claim **14**, see the rejection of claim 11 and note that Boncyk et al. further discloses:

Image recognition system further includes a character recognition system (27:36-28:14).

Regarding claim **15**, see the rejection of claim 11 and note that Boncyk et al.

further discloses:

> Image recognition system further includes a facial recognition
> system (27:7-9).

Regarding claim **17**, Boncyk et al. discloses:

> A computer implemented method for image-based searching,
> comprising: receiving at a computer server, an input image from a user
> device remotely located from the server (8:22-10:5); providing from the
> computer server the input image to an image recognition system (37:30-
> 38:1 and 18:6-10); receiving at the computer server from the image
> recognition system a symbolic identifier associated with the input image
> (9:40-10:5, URL); providing from the computer server the symbolic
> identifier to a search engine as a query (9:40-10:5, URL); receiving at the
> computer server from the search engine a set of search results associated
> with the symbolic identifier (URL lookup 9:40-10:5); and transmitting from
> the computer server a plurality of the search results to the user device
> (URL lookup 9:40-10:5).

Regarding claim **18**, Boncyk et al. discloses:

> A computer implemented method for image-based searching at a
> computer server, the method comprising: receiving an input image from a
> user device remotely located from the server (8:22-10:5); determining a
> plurality of graphical attributes represented in the input image (37:30-38:1

and 18:6-10); matching the input image to a reference image from a

plurality of reference images stored in a storage medium, based on the

plurality of graphical attributes of the input image and the reference

images (15:1-15:35), each of the reference images having an associated

symbolic identifier (37:30-38:1); and associating a symbolic identifier to

the input image based on the symbolic identifier associated with the

matching reference image (37:30-38:1); processing the symbolic identifier

as search query to retrieve, from a search engine, a set of search results

associated with the symbolic identifier (URL lookup 9:40-10:5); and

transmitting a plurality of the search results to the user device (URL

lookup 9:40-10:5).

Regarding claim **19**, see the rejection of claim 18 and note that Boncyk et al.

further discloses:

User device comprises a mobile telephone having an integrated

camera (6:7-19).

Regarding claim **21**, see the rejection of claim 18 and note that Boncyk et al.

further discloses:

Receiving a geographic location of the user device through the

network (27:36-28:14).

Regarding claim **22**, see the rejection of claim 21 and note that Boncyk et al.

further discloses:

Image recognition system is further adapted to match the input
image to a reference image from the plurality of reference images based
on the geographic location of the user device (27:36-28:14).

Regarding claim **23**, see the rejection of claim 18 and note that Boncyk et al.
further discloses:

Image recognition system further includes a character recognition
system (27:36-28:14).

Regarding claim **24**, see the rejection of claim 18 and note that Boncyk et al.
further discloses:

Image recognition system further includes a facial recognition
system (27:7-9).

Regarding claim **25**, see the rejection of claim 18 and note that Boncyk et al.
further discloses:

Image recognition system is further adapted to enable transmission
of reference images, for use by the image recognition system, to the
storage medium (8:22-10:5).

Regarding claim **26**, see the rejection of claim 18 and note that Boncyk et al.
further discloses:

Selecting a matching reference image from a plurality of reference
images stored in a storage medium comprises: determining the graphical
attributes in the input image represented by a plurality of trained attribute
detectors (9:32-10:2); aggregating a plurality of confidence values

received from the plurality of trained attribute detectors (9:32-10:2 and

17:5-18:10); and determining the matching reference image where the

aggregated plurality of confidence values exceed a predetermined

threshold value (best match, 9:32-10:2).

Regarding claim **27**, see the rejection of claim 18 and note that Boncyk et al.

further discloses:

Search results comprise links to websites (9:32-10:5), contact

information (36:18-21), product information (40:24-27), translations of

recognized characters (27:36-28:14), and other information related to the

input image (39:18-24).

Regarding claim **28**, Boncyk et al. discloses:

A computer implemented method for image-based searching of

product information (40:24-27), comprising: receiving an input image from

a user device remotely located from the computer server (8:22-10:5);

processing the input image of the manufactured product on an image

recognition system to obtain a symbolic identifier identifying the

manufactured product in the input image (symbols, 9:12-31), the symbolic

identifier comprising at least one of a product name or a product

identification number, or a product code (9:12-31); providing the symbolic

identifier associated with the input image to the search engine as a query

(decode symbol 9:12-31); receiving a set of search results associated with

the symbolic identifier, the search results including at least one document

descriptive of the manufactured product in the input image (numerals or

text information, 9:12-31, 40:24-27); and transmitting via the network, a

plurality of the search results to the user device (37:30-38:1).

Claim Rejections - 35 USC § 103

Claims **9, 10, 16, and 20** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Boncyk et al.

Regarding claim **9**, see the rejection of claims 1 and 2 and note that Boncyk et al.

further discloses in 40:24-27 that an image can be taken and used to retrieve

maintenance instructions or repair history of a part of an aircraft. Official Notice is taken

that it was well known at the time the invention was made to organize maintenance

instructions for a part of a device into the form of a handbook, which would contain

further maintenance instructions for other parts of the device. An advantage to doing so

is that instructions for the device are organized for a person who desires to do further

maintenance on different parts of the same device. For this reason it would have been

obvious to one of ordinary skill in the art at the time the invention was made to have

Boncyk include organizing maintenance instructions for a part of a device into the form

of a handbook.

It is noted by the examiner that because the applicant has failed to timely

traverse the old and well-known statement above, it is now taken as admitted prior art.

See MPEP 2144.03(c).

Regarding claim **10**, see the rejection of claim 2 and note that Boncyk et al. is silent with regards to allowing providers of information to make new entries to the system so that their data can be retrieved. Official Notice is taken that it was well known at the time the invention was made to update databases with new information. An advantage to doing so is that the person deciding to access the database will have the most up to date information available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Boncyk include allowing providers of information to make new entries to the system so that their data can be retrieved.

It is noted by the examiner that because the applicant has failed to timely traverse the old and well-known statement above, it is now taken as admitted prior art. See MPEP 2144.03(c).

Regarding claim **16**, see the rejection of claim 11 and note that Boncyk et al. is silent with regards to updating the images and allowing future searching to include searching the updated images. Official Notice is taken that it was well known in the art at the time the invention was made to update image databases with new images that can be searched. An advantage to doing so is that the person deciding to access the database will have the most up to date information available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Boncyk include allowing providers of information to make new entries to the system so that their data can be retrieved.

Regarding claim **20**, see the rejection of claim 18 and note that Boncyk et al. is silent with regards to updating the images and allowing future searching to include searching the updated images. Official Notice is taken that it was well known in the art at the time the invention was made to update image databases with new images that can be searched. An advantage to doing so is that the person deciding to access the database will have the most up to date information available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Boncyk include allowing providers of information to make new entries to the system so that their data can be retrieved.

Claims **29-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Boncyk et al. in view of Waibel (U.S. Pub. No. 2003/0164819).

Regarding claim **29**, see the rejection of claim 28 and note that Boncyk et al. is silent with regards to using the method for identification of buildings name and information about buildings. Waibel discloses this in ¶0057 and ¶0061-0062. This is advantageous in that the user can annotate the images with the name and/or location for storage in a photo album. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Boncyk et al. include using the method for identification of buildings name and information about buildings.

Regarding claim **30**, Boncyk discloses:

A computer implemented method for image-based language recognition, comprising: receiving an input image from a user device

remotely located from the computer server (8:22-10:5); processing the

input image on a character recognition system, executed by the computer

server to obtain text data indicative of the text (27:36-28:14); and

transmitting, via the network, the text to the user device (37:30-38:1).

Boncyk et al. is silent with regards to inputting the text in one language and

outputting a translation of the text in a second user language. Waibel discloses this in

¶0028. This is advantageous in that a user can identify a building or read a sign that

the user is interested in knowing information about. For this reason it would have been

obvious to one of ordinary skill in the art at the time the invention was made to have

Boncyk et al. include inputting the text in one language and outputting a translation of

the text in a second user language.

Regarding claim **31**, see the rejection of claims 29, 11, and 15 and note that

Boncyk et al. is silent with regards to providing the name and information about the

name. Waibel discloses this in ¶0058. This is advantageous in that the person's

favorite foods, likes, and dislikes etc. can be ascertained. For this reason it would have

been obvious to one of ordinary skill in the art at the time the invention was made to

have Boncyk et al. include providing the name and information about the name.

(10) Response to Argument

Appellant argues that Boncyk does not disclose a search engine and only

discloses a traditional database and point to cited section 9:40-10:5 of Boncyk.

Appellant is reminded that during patent examination, the pending claims must be given

the broadest reasonable interpretation consistent with the specification. In re Morris,

127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). Additionally, although

the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057

(Fed. Cir. 1993).

The examiner further points out that 9:40-10:5 does disclose a URL for searching

a network of computers or the internet and the URL lookup would provide information

back to the user based on what the URL points to. However Boncyk is not limited to the

URL application for a search engine. As can be seen in 27:36-28:17 identifying marks

on a target object (100) from a camera can be included as object information from an

identification server (106) with object recognition (107) and database (108) which is

used by the content server (111, (search engine)) to identify an object from many similar

objects. In 37:30-38:1 the relevant information can be sent back from the content

server (111) after identifying the object. See also Figs. 5-7 of Boncyk.

References for the subject matter pertaining to the Official Notices in the final

office action are being provided as follows:

For claim 9: The "Haynes Repair Manuals" document shows organized

maintenance instructions for a part (automobile) into the form of a handbook (manual

with instructions and photographs) where an automobile with many parts can be torn

down and rebuilt using the instructions and photographs.

For claim 10: The Kaku reference in ¶0137 and ¶0139 shows the updating of an image database using captured images and searching and retrieving of images in the database using search parameters.

For claim 16: The Kaku reference in ¶0137 and ¶0139 shows the updating of an image database using captured images and searching and retrieving of images in the database using search parameters.

For claim 20: The Kaku reference in ¶0137 and ¶0139 shows the updating of an image database using captured images and searching and retrieving of images in the database using search parameters.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Nicholas G Giles

/Nicholas G Giles/

Examiner, Art Unit 2622

Conferees:

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